IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24961 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYABEN RASIKBHAI THR' POAH-ASHOKBHAI R.AGRAWAL - Petitioner

Versus

TORRENT POWER AEC LTD. THR' GENERAL MANAGER & 2 - Respondents

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Appearance :

MRS FALGUNI D PATEL for Petitioner
NOTICE SERVED for Respondent(s) : 1 - 3.
NOTICE SERVED BY DS for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 19/02/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the Board indicates that though all the three respondents are duly served with the notice for final disposal of the petition, none of them has appeared, either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition, upon the respondents. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner i.e. Jayaben Rasikbhai through her Power of Attorney Holder Mr.Ashokbhai R.Agrawal, has prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondent No.1 i.e. Torrent Power AEC Ltd., to grant 7 electricity connections to the non-residential units

constructed by the power of attorney holder. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant Building Use Permission to her in respect of the non-residential units constructed by her power of attorney holder.

3. Sub-Plot No.1 of Final Plot No.164 of Town Planning Scheme No.5 of village Vejalpur (Jodhpur), Taluka : City, District : Ahmedabad belonged to Smt.Jayaben Rasikbhai. She was desirous of developing the land belonging to her. Therefore, she, through her power of attorney holder Mr.Ashokbhai R.Agrawal applied to the respondent No.2 i.e. Ahmedabad Urban Development Authority for grant of development permission. The development permission was granted on April 3, 2006, which is quite evident from the contents of the document produced by the petitioner at Annexure-A to the petition. Smt.Jayaben Rasiklal executed General Power of Attorney on May 24, 2005 in favour of Ashokbhai R.Agrawal, a copy of

which is produced on running page 9 of the compilation. The case of the petitioner is that pursuant to the development permission granted by A.U.D.A., her power of attorney holder has constructed 7 non-residential Units. After the construction of the non-residential Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electricity connections to the Units constructed by her power of attorney holder. However, without obtaining Building Use Permission, Smt.Jayaben Rasiklal applied to the respondent No.1 for grant of electricity connections to the Units constructed by her power of attorney holder. The said request has been turned down by the respondent No.1, which is quite evident from the contents of communication dated November 20, 2006 addressed by the General Manager of the respondent No.1 to the petitioner, a copy of which is produced at Annexure-B to the petition. By the said communication, the petitioner has been called

upon to produce Building Use Permission to enable the respondent No.1 to grant electricity connections to the Units constructed by her power of attorney holder. Under the circumstances, the petitioner has filed the instant petition and claimed the relief to which reference is made earlier.

4. The petition was placed for admission hearing before the Court on December 4, 2006 and after hearing the learned Counsel for the petitioner, notice for final disposal of the petition was issued. As observed earlier, all the three respondents are duly served, but, none of them has appeared before the Court, nor contested the petition.

5. This Court has heard Mrs. Falguni D.Patel, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad

Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to seven non-residential Units constructed by her power of attorney holder with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connections to seven non-residential Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development

Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to seven non-residential Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the non-residential units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to seven non-residential Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to seven non-residential Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to seven non-residential Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the

purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]

(patel)